

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Western Massachusetts Electric Company)
)
2002 Rate Change Filing)
)

D.T.E. 01-101

PETITION OF ALTERNATE POWER SOURCE, INC. TO INTERVENE

Alternate Power Source, Inc. ("APS") hereby petitions for leave to intervene and participate in the above-captioned proceeding in accordance with 220 CMR 1.03.

In support of its request, APS states as follows:

- 1) APS's name and address are as follows:

Alternate Power Source, Inc.
400 Blue Hill Drive
Westwood, Massachusetts 02090

- 2) APS is a Massachusetts corporation. On December 10, 1999 APS entered into an Agreement with Western Massachusetts Electric Company ("WMECO"), titled "Standard Offer and Default Service Wholesale Agreement" (hereinafter "Agreement"). Under the Agreement APS agreed to provide generation service to WMECO in quantities sufficient to meet forty percent of WMECO's firm Standard Offer Service ("SOS") and Default Service ("DS") load for calendar year 2000.
- 3) APS has questioned WMECO regarding the billing quantities paid by WMECO under the Agreement. Under the Agreement APS is to be paid its bid price for 40% of the firm SOS and DS requirements of retail customers in 2000, excluding sales to interruptible customers. APS has been paid for 1,499,727-megawatt hours ("MWH"). Based on WMECO's FERC Form 1 total retail sales in 2000 were 3,882,297 MWH including 39,685 MWH for interruptible customers. The net retail sales to firm SOS and DS customers in 2000 was 3,842,612 MWH based on WMECO's FERC Form 1. APS should have received payment for 1,537,045 MWH. WMECO has not made payment to APS for 37,318 MWH of sales to firm SOS and DS customers.
- 4) In this proceeding WMECO proposes to reconcile SOS and DS revenue and costs for calendar year 2000. In D.T.E. 97-120-D WMECO filed and the Department approved an average firm rate for SOS and DS of \$0.04557 per kWh. The approved charge

times the firm SOS and DS sales reported in the WMECo FERC Form 1 (excluding interruptible sales) would result in over \$175,100,000 in billed revenues. Attachment 9 includes only \$170,205,891 in billed SOS and DS revenues. In addition, there are billed revenues from interruptible sales.

- 5) The 2000 SOS costs reported on Attachment 9 do not equate with the payments made to APS which is denoted as Supplier 1. In addition, the costs do not include any provision for the additional sales and the associated payments that APS claims are due it.
- 6) In this proceeding WMECO has filed a Transmission Cost Adjustment reconciliation in Attachment 10 for the years 1998 through 2000. This reconciliation filing does not contain sufficient back up information. From the available information it does not appear that the transmission reconciliation includes transmission congestion charges in some years, but does appear to include transmission congestion charges for other years.
- 7) WMECO has taken the position that APS is responsible under the Agreement for transmission congestion charges. APS understands that WMECO has taken the same position vis-à-vis its other generation service suppliers for calendar year 2000. In December 2000 and January 2001, WMECO withheld approximately \$2,000,000, representing transmission congestion charges, from funds due APS for generation. As a result, APS was forced to commence suit against WMECO in Norfolk County Superior Court, Civil Action No. 2000-01967, seeking payment of the funds withheld by WMECO. That case remains pending.
- 8) In a letter Order to WMECO in D.T.E. 00-110 dated December 29, 2000, p. 6, FN 6, the Department specifically determined that transmission congestion charges were properly classified as transmission costs and not generation supply costs.
- 9) The Department should not finally approve the reconciliation of SOS and DS without a much more detailed review. If the Department approves the 2002 SOS and DS rate changes to become effective January 1, 2002, it should make the order and any reconciliation subject to further adjustment based on a full review and resolution, on an adequate record, of the issues raised above.
- 10) Moreover, if the Department approves the transmission cost adjustment, it should make the order and any reconciliation subject to further adjustment in the event the Court determines that WMECO, and not APS, is responsible for transmission congestion charges under the Agreement.
- 11) WMECO has asserted in the court proceeding referenced above that it does not have the ability to reconcile for transmission congestion payments in calendar year 2000. APS has disputed this allegation in Court, and WMECO's current filing is clear

evidence that WMECo **does** have the right to reconcile for transmission congestion costs.

- 12) APS has a direct financial interest in that it received payment for generation supply service to retail customers in 2000 which could be affected by the proposed reconciliations. No other party can adequately represent the interests of APS in this proceeding.

WHEREFORE, APS requests that the Department grant this Petition to Intervene as a full Party.

Alternate Power Service, Inc.
By its attorney,

Andrew J. Newman
Rubin and Rudman LLP
50 Rowes Wharf
Boston, MA. 02110
617-330-7000

Dated: December 10, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in these proceedings in accordance with the requirements of 220 CMR 1.05(1) (Department's Rules of Procedure and Practice).

Andrew J. Newman

Date: December 10, 2001

